

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SCOTT A. BROWN,

Plaintiff,
v.

LUCAS WOGERNESE,

Defendant.

ORDER

16-cv-34-jdp

Pro se plaintiff Scott Brown is proceeding against defendant Lucas Wogernese with a claim under the Eighth Amendment for acting with deliberate indifference to plaintiff's serious medical needs. The Wisconsin Department of Justice accepted service of plaintiff's complaint on May 4, 2016. Dkt. 16. Counsel for Wogernese has filed a notice of appearance, but the deadline for Wogernese to answer plaintiff's complaint has not yet passed.

Plaintiff has moved for an order allowing him to use his prison's law library. Dkt. 18. He indicates that he is currently confined to his cell and that prison officials are refusing to let him go to the law library. *Id.* Although plaintiff does not identify the officials who are denying his requests, it does not appear that Wogernese is responsible. Plaintiff is concerned that without access to the law library, his case may get dismissed. *Id.*

Any claim that prison officials who are not defendants in this case are violating plaintiff's constitutional rights by denying him access to the law library would have to be raised in a separate lawsuit. *See Collins v. McCaughtry*, No. 04-cv-147, 2004 WL 1946403, at

*1 (W.D. Wis. Aug. 25, 2004). However, I would address plaintiff's access to the law library in this case if prison officials prevented him from preparing for trial or from defending against a motion that Wogernese files. *See Bey v. Berge*, No. 08-cv-747, 2009 WL 415581, at *1

(W.D. Wis. Feb. 13, 2009). The court has not yet scheduled a trial in this case and there are no pending motions. Thus, at this point, plaintiff has no reason to worry that his case will get dismissed. Plaintiff should be aware that he will receive notice and time to respond to any motion that Wogernese files.

I will deny plaintiff's motion for an order requiring prison officials to provide him with access to the law library. But this denial will be without prejudice to plaintiff renewing his request later in the case if his access to the law library continues to be an issue.

ORDER

IT IS ORDERED that plaintiff Scott Brown's motion for use of law library, Dkt. 18, is DENIED without prejudice.

Entered June 2, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge